

**Rights and the Canadian Constitution
Political Science 403G
University of Western Ontario Winter 2002**

Time: W 1-3

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Course Description:

This course will examine rights in the context of a specific application. It will focus on the Canadian Constitution and the attempts to use the Charter of Rights and Freedoms to resolve the dilemma of reconciling minority rights with majority rule. The course will also explore the relationship between rights and power, both between groups and among elites and masses.

IMPORTANT NOTICE RE: PREREQUISITES/ANTIREQUISITES

Prerequisite: Politics 230E

PLEASE NOTE: You are responsible for ensuring that you have successfully completed all course prerequisites, and that you have not taken an antirequisite course. Lack of prerequisites may not be used as a basis for appeal.

If you are found to be ineligible for a course, you may be removed from it at any time and you will receive no adjustment to your fees. This decision cannot be appealed.

If you find that you do not have the course requisites, it is in your best interest to drop the course well before the end of the add/drop period. Your prompt attention to this matter will not only help protect your academic record, but will ensure that spaces become available for students who require the course in question for graduation.

Course Requirements:

Short papers (6 x 5%).....	35%
Book review (no longer than 15 pages)	45%
Seminar participation.....	20%

Short paper: To ensure focused and productive discussions, each student will prepare a short paper about the required readings for six of the seminar sessions. All students must prepare a short paper for the January 23 session, and then for five of the weeks marked * on the Course Schedule.

Each short paper should summarize and the reading(s) assigned that week. If a court case is included in the readings, apply what you read in the textbook or other academic writings to the cases. The short papers are due in class and **should not be more than two pages**.

Book review: Review the book Supreme At Last. What is the aim of the book? Does it achieve that aim? What are the premises of the arguments? Are they plausible? What evidence and reasoning does the book present? Are they convincing? Ambiguities, difficulties, doubtful assertions, or questionable generalizations should be identified. Draw out the implications of his argument. In what ways do you agree or disagree with the argument? The assignment is not just to summarize the book. **Reviews should not be longer than 15 pages**. Due April 10.

Short papers and the book reviews will be graded on style, organization (scope and structure), and evaluation of arguments and evidence.

Late Papers:

Short papers will be docked 2 points if they are up to a day late. After one day, they will not be accepted. Book reviews will be docked 5 points per day. Extensions will be granted only for documented, compassionate reasons (illness, death in family, etc.). Papers more than seven days late will receive no grade.

Plagiarism:

Plagiarism is a very serious academic offence. I will treat it as seriously as the University is disciplinary procedures allow.

Books:

The following books are available at the Western Bookstore:

Christopher P. Manfredi. Judicial Power and the Charter, 2nd ed. Toronto: Oxford University Press, 2000.

Peter McCormick. Supreme At Last. Lorimer, 2000.

There is also a custom package of course readings available.

Course Schedule:

Date	Topic	Readings
Jan. 9	Introduction and Seminar Organization	No readings.
Jan. 16	History of the Charter	Russell, "The Political Purposes of the Canadian Charter of Rights and Freedoms," (1983) 61 <u>Cdn Bar Rev</u> 30. Kelly, "Reconciling Rights and Federalism during Review of the Charter of Rights and Freedoms," (2001) 34 Cdn J Pol Sci 321.
Jan. 23*	Judicial Review	Manfredi, Chapter 1.
Jan. 30*	Dimensions of Constitutional Interpretation	Manfredi, Chapter 2.
Feb. 6*	Legitimacy of Judicial Review: The Legalistic Fallacy	Knopff and Morton, ch. 6. <u>Vriend</u> (Legitimacy of Judicial Review). <u>PEI Judges Reference</u> .
Feb. 13*	Fundamental Freedoms	Manfredi, ch. 3. <u>Butler</u> .
Feb. 20*	Equality Rights	Manfredi, ch. 5. <u>Andrews</u> , <u>Weatherall</u> , <u>Vriend - Equality Rights</u> .
Mar. 6*	Legal Rights	Manfredi, ch. 6. <u>Feeney</u> .

Mar. 13*	The Notwithstanding Clause	Manfredi, ch. 7. Reid, "Penumbras for the People," in Peacock, ed., <u>Rethinking the Constitution</u> .
Mar. 20	Judicial Appointments	Ziegel, "Merit Selection and the Democratization of Appointments to the Supreme Court of Canada," (1999) <u>Choices</u> , vol. 5, no. 2.
Mar. 27*	Interest Group Litigation	Hein, "Interest Group Litigation and Canadian Democracy," in Howe and Russell, eds., <u>Judicial Power and Canadian Democracy</u> . Brodie, "Political Disadvantage and State Action," in <u>Friends of the Court</u> .
Apr. 3*	Is the Charter Democratic?	Bogart, <u>Courts and Country</u> , ch. 9. Ajzenstat, "Reconciling Parliament and Rights," (1997) <u>Cdn J Pol Sci</u> 645. Manfredi, Chapter 6.
Apr. 10	<u>Supreme At Last</u>	